

IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,)
)
Plaintiff,) 8:09CR295
)
v.)
)
JAMAL A. HOLMES,) ORDER
)
Defendant.))

This matter is before the Court on the report and recommendation (Filing No. [22](#)) of the magistrate judge, recommending that defendant's motion to suppress (Filing No. [14](#)) be denied.

Pursuant to 28 U.S.C. § 636(b)(1)(C), the Court has reviewed the matter *de novo*, including defendant's brief in support of his statement of objections (Filing No. [26](#)) and finds that in view of the area in which the incident occurred, the report of shots being fired, the information that two black men wearing dark clothing were seen leaving the area, and the area in which the defendant was stopped by the police, the Court finds that the officers had reasonable suspicion to stop defendant and subsequently to conduct a pat-down search. For these reasons, the report and recommendation of the magistrate judge will be approved and adopted and defendant's motion to suppress will be denied. Accordingly,

1) The report and recommendation of the magistrate judge is approved and adopted.

2) Defendant's motion to suppress is denied.

3) Trial of this matter is scheduled for:

Monday, January 4, 2010, at 9 a.m.

Courtroom No. 5, Roman L. Hruska United States Courthouse, 111 South 18th Plaza, Omaha, Nebraska. This will give the parties time to prepare for trial or pursue plea negotiations, and will accommodate the schedule of the Court. The ends of justice will be served by continuing this case and outweigh the interests of the public and the defendant in a speedy trial. The additional time between November 17, 2009, and January 4, 2010, shall be deemed excludable time in any computation of time under the requirement of the Speedy Trial Act. 18 U.S.C. § 3161(h)(8)(A) & (B).

DATED this 17th day of November, 2009.

BY THE COURT:

/s/ Lyle E. Strom

LYLE E. STROM, Senior Judge
United States District Court